

Public Governance All the Way Down

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Edward Peter Stringham's *Private Governance* confirms my priors: The state is generally bad at governing, and private individuals typically do a much better job governing themselves. Emergent orders are super neat and trounce the clumsy fist of coercive, monopolistic government. Stringham presents case studies telling me I was right about this all along.

Which made the task of responding to it rather daunting, especially as someone not trained as an historian and so not qualified to assess the veracity of his numerous empirical claims. What to say about a book I largely agree with? I was stymied until I noticed a common theme in my underlines and margin notes. While I'm very much on Stringham's side when it comes to the benefits of private governance over public, and of market processes over state regulation and violence, I often found myself confused about how we might distinguish private from public, at least within the framework Stringham provides.

Put simply, Stringham's definition of private governance appears to depend on the existence of public governments, such that the only way to ultimately tell private from public is to point at the latter and say, "This other thing is private because it's not *that*."

The definitions come in a footnote. Drawing on Merriam-Webster, Stringham calls government "the group of people who control and make decisions for a country, state, etc." Private is "intended for or restricted to the use of a particular person, group, or class." We don't get a definition of "public" here, but he does tell us that whether an institution is a "government" (meaning "public government") hinges on whether its agents "make decisions for everyone in a region (regardless of whether people agree), whereas rule makers or enforcers at private colleges or stock exchanges are private and only apply to people who do business in those venues." (3n1) These differences get unpacked a bit in chapter 3, but not to a degree we might call a bright line.

So, while we get definitions (of sorts) of "government" and "private," unless I missed it, Stringham doesn't give a clear definition of "state," which is of course what we have in mind when we talk about public government. For sake of argument, then, let's take the most common definition, Max Weber's, which applies the label to any "human community that successfully claims the monopoly of the legitimate use of physical force within a given territory." For purposes here, to keep us in the realm of most governments and away from, say, volunaryism, I'll add, "And funds its activity via taxes."

Now, this definition clearly doesn't apply to most of Stringham's case studies, largely because most of them avoid the issue of physical force entirely. They're non-geographic and economic – distributed systems of virtual goods, chiefly stocks and other financial instruments, existing outside physical space. Which is all well and good, but I'm not Doctor Manhattan, and so must live within geography, within territory, as part of the physical world. This means I'm always present in some space, and that space is either owned – privately or publicly – or unowned. No matter where my money is or how it flows, I have to live somewhere, and whether that somewhere is statist or anarchical, if I live near others, I'll routinely encounter governance.

What would it mean for me, an embodied being, to live within "public" versus "private" governance? I'm not sure Stringham clearly answers that question, which seems like a real concern if the project of the book is to promote private governance generally. After all, my life is more impacted by whatever governing system controls or limits – or protects – my choices about my body and my tangible property than it is by the rules governing how I can invest my earnings.

Sticking to the tangible, we get chiefly two examples from Stringham: private police and gated/private communities. Focusing on those, then, is there a meaningful way to tell which police/communities are public and which private *without simply pointing at the one that's declared itself public and then deciding the rest are necessarily private?*

In a system only of private governance – i.e., with no organization labeling itself “the state” – we'd necessarily find ourselves in private communities patrolled by private police. We'd choose which community to live in and signal our acceptance of that community's rules by buying into it. If the community provided any services at all – as nearly all do – we'd pay for those services via something like homeowners association (HOA) fees. Stringham mentions such a setup several times, and labels each “private.” If we don't like the rules the HOA or community owner dictates, we might run for the HOA board, vote in HOA elections, etc. If things get bad enough, we might move somewhere else.

Our private communities would use some of those funds they take in from their residents to provide security. And just as with a shopping mall owner hiring a particular firm to provide security guards within his building, the community would likely hire a single firm – if it doesn't run the security itself. It's unlikely it would allow competing firms, or allow me to hire my own police and my own courts for just my house, just as the mall owner wouldn't let competing guard agencies move in on his approved agency's turf.

If this is an accurate picture of terrestrial “private” governance – and it certainly lines up with the examples Stringham gives us – then we've run into something of a problem. First, those HOA fees look an awful lot like taxes. I must pay them or management will fine me or have their security agents escort me from the neighborhood. Second, the single security firm certainly looks like it “claims the monopoly of the legitimate use of physical force within a given territory.” Thus is our private government – the owners/managers of the gated community – a state?

On the one hand, it meets the definition of “private,” for it's “intended for or restricted to the use of a particular person, group or class” – in this case the residents of the community. But at the same time, it looks an awful lot like public government, for it “make[s] decisions for everyone in a region, (regardless of whether people agree...)” Stringham's note that private organizations make rules that “only apply to people who do business in those venues” does not work here, because all of the residents *did* choose to do business by buying in, but also have to obey the rules even if they disagree, and with their only recourse being casting one vote among many, petitioning ownership, or exercising a right of exit.

Yet a government of a territory, claiming a monopoly on the use of force within the area, funded by non-voluntary fees, and able to be influenced only through casting one vote among many, petitioning ownership, or exercising a right of exit is exactly what we have with our existing, public governments.

In chapter 3, where Stringham has promised to clarify his definitions, we don't get much help in solving the puzzle. “One of the most fundamental differences between public governments and private clubs is that private *clubs are voluntary associations* that people join contractually and are free to quit.” (25) If I immigrate to a new country, however, I've joined contractually (of a sort) and am free to quit provided the country doesn't violate my right of exit. Most of us *didn't* immigrate, of course, because we were born into our country. But my children were born into the privately managed community where I live now. They didn't choose to be subject to its rules any more than they chose to be subject to the rules of the Commonwealth of Virginia or the United States of America.

Stringham says, “The essence of markets is voluntary choice, whereas the essence of the state is imposing its choices on everyone.” (26) But isn't this exactly what a gated community does to everyone inside its gates? Again, residents/clients can vote or complain or leave, but so can citizens of most

non-totalitarian states.

What about the claim that “providers of private governance have an incentive to provide assurances that they will treat their clients well,” because “otherwise, the demand for their product will not be as high as it could be?” (29) That pretty accurately describes what’s going on when citizens of one country leave it for greener pastures.

Then there’s the idea that “even if future customers are not present when private governance mechanism are put in place, private governance providers must heed future customer demands.” (29) Again, how does this not apply to public governments as well, at least those that are nominally democratic?

Reading Stringham, I’m not sure there’s a meaningful way to tell the difference between anarchism – a world of only private governance, with no public governance whatsoever – and Nozickian minarchism – especially if that minarchism looks like Nozick’s “utopia of utopias.” In effect, his definition of private governance suffers from a “turtles all the way down” problem. Private is what happens when people sidestep public governance in order to govern their behavior themselves. If that’s true, then Stringham’s book isn’t really about the qualitatively different “public” and “private,” but instead about the quantitatively different “maximal” versus “minimal” government.

Does any of this matter? For much of *Private Governance*, clearly no. The important historical insights carry much weight, as does the lesson that letting people organize voluntarily brings enormous benefits over the state’s coercive and monopolistic violence. At the same time, though, the clear theme of *Private Governance* is that public governance isn’t good for much, if anything, and could – and should – be replaced with a system of only private governance. In other words, with anarchy.

The trouble is, after 238 pages on *Private Governance*, I still don’t know what private governance *is*.